

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OKLAHOMA

**1. PLUMBERS AND PIPEFITTERS
NATIONAL PENSION FUND**

**CIVIL ACTION NO:
17-cv-00008-GKF-TLW**

**2. PLUMBERS AND PIPEFITTERS
LOCAL UNION 430 HEALTH & WELFARE FUND**

JUDGE: Gregory Kent Frizzell

**3. PLUMBERS AND PIPEFITTERS
LOCAL UNION 430 ANNUITY FUND**

**4. LOCAL UNION NO. 430 JOINT
APPRENTICESHIP AND
TRAINING COMMITTEE
TRUST FUND d/b/a
TULSA PIPE TRADES TRAINING
SCHOOL, a Corporation**

**5. INTERNATIONAL
TRAINING FUND**

**6. PLUMBERS AND
PIPEFITTERS LOCAL
NO. 430**

Plaintiffs,

vs.

**1. LOGAN AND COMPANY,
INC.**

Defendant.

**COMPLAINT
(FOR BREACH OF COLLECTIVE BARGAINING AGREEMENT AND
FOR COLLECTION OF DELINQUENT CONTRIBUTIONS)**

1. This is an action brought pursuant to Sections 502 and 515 of the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended, 29 U.S.C. §§ 1132 and 1145, and § 301 of the Labor Management Relations Act (“LMRA”), 29 U.S.C. § 185.

I. PARTIES

2. Plaintiff, PLUMBERS AND PIPEFITTERS NATIONAL PENSION FUND (“Pension Fund”), is an “employee pension benefit plan” as defined in § 3(2)(A)(i) of ERISA, as amended, 29 U.S.C. § 1002(2)(a)(i), established by the United Association of Pipe Fitters of the United States and Canada, AFL-CIO and employers in an industry affecting commerce, whose employees are represented by Plumbers and Pipefitters Local Union No. 430 (Local 430), for the purposes of providing retirement income to the employees. The Pension Fund is authorized to sue in its own name by § 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). The Pension Fund is administered at 103 Oronoco Street, Alexandria, Virginia 22314.

3. Plaintiff, PLUMBERS AND PIPEFITTERS LOCAL 430 HEALTH & WELFARE FUND (“Health & Welfare Fund”), is an “employee welfare benefit plan” as defined in § 3(1) of ERISA, as amended, 29 U.S.C. § 1002(1), established by the Local 430 and employers in an industry affecting commerce, whose employees are represented by that Union, for the purposes of providing medical benefits to the employees. The Health & Welfare Fund is authorized to sue in its own name by § 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). The Health & Welfare Fund is administered in Tulsa, Oklahoma, and is located at 2908 N. Harvard Avenue, Tulsa, Oklahoma 74115.

4. Plaintiff, PLUMBERS AND PIPEFITTERS LOCAL 430 ANNUITY FUND, also known as Oklahoma State Pipe Trades Annuity Fund (“Annuity Fund”), is an “employee benefit plan” as defined in § 3(1) of ERISA, as amended, 29 U.S.C. § 1002(1), established by Local 430 and employers in an industry affecting commerce, whose employees are represented by that Union, for the purposes of providing annuity benefits to the employees. The Annuity Fund is authorized to sue in its own name by §502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). The

Annuity Fund is administered in Tulsa, Oklahoma, and is located at 2908 North Harvard Avenue, Tulsa, Oklahoma 74115.

5. Plaintiff, LOCAL UNION NO. 430 JOINT APPRENTICESHIP AND TRAINING COMMITTEE TRUST FUND D/B/A TULSA PIPE TRADES TRAINING SCHOOL, A CORPORATION (“Apprenticeship Fund”), is an “employee benefit plan” as defined in § 3(1) of ERISA, as amended, 29 U.S.C. § 1002(1), established by Local 430 and employers in an industry affecting commerce, whose employees are represented by that Union, for the purposes of providing apprenticeship and journeyman training benefits to employees. The Apprenticeship Fund is authorized to sue in its own name by § 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). The Apprenticeship Fund is administered in Tulsa, Oklahoma, and is located at 8602 E. 46th Street, Tulsa, Oklahoma 74145.

6. Plaintiff, INTERNATIONAL TRAINING FUND (“Training Fund”), is an “employee benefit plan” as defined in § 3(1) of ERISA, as amended, 29 U.S.C. § 1002(1), established by the United Association of Journeyman and Apprentices of the U.S. and Canada, AFL-CIO and employers in an industry affecting commerce, whose employees are represented by that Union, for the purposes of providing training benefits to employees. The Training Fund is authorized to sue in its own name by § 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). The Apprenticeship Fund is administered at 103 Oronoco Street, Alexandria, Virginia 22314.

7. Plaintiff, PLUMBERS AND PIPEFITTERS LOCAL UNION No. 430 (“Local 430”), is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act, 29 U.S.C. § 152(5), and an employee organization within the meaning of 29 U.S.C. § 1002(4). Local 430 is located at 2908 North Harvard Avenue, Tulsa, Oklahoma 74115.

8. Defendant, LOGAN AND COMPANY, INC (“Logan”), is a Kansas Corporation doing business in Okmulgee County, Oklahoma, and on information and belief is registered to do business in Oklahoma. It has been, at all material times, an “employer” within the meaning of § 3(5) of ERISA, 29 U.S.C. §§ 152(2) and 1002(5). It has, at all material times, been engaged as a contractor or subcontractor in the industry of plumbing and pipefitting work and, as such, has been, and continues to be, an employer in an “industry affecting commerce” as defined in § 3(12) of ERISA, and 29 U.S.C. § 1002 (12). Logan and Company may be served by delivering a copy of the summons to its registered agent for service of process, Verona K. Greenawalt, 5840 South Memorial, Suite 214, Tulsa, Oklahoma 74145.

II. JURISDICTION AND VENUE

9. Subject matter jurisdiction over this Complaint is conferred on this Honorable Court by 28 U.S.C. §§ 1331 and 1367; §§ 502(e) and 515 of ERISA; 29 U.S.C. §§ 1132 (e) and 1145; and by § 301 (c) of the LMRA, 29 U.S.C. § 185 (c).

10. This Court has personal jurisdiction over the Defendant under §502(e)(2) of ERISA, 29 U.S.C. § 1132 (e)(2) and § 301 of the LMRA, 29 U.S.C. § 185 (c). Defendant has conducted and continues to conduct business in the Northern District of Oklahoma, specifically providing mechanical and construction services to one or more individual facilities located in this District.

11. Venue is proper in the Northern District of Oklahoma, where the Plans are administered and where the breach took place, under Section 502(e)(2) of ERISA, 29 U.S.C. § 1132 (e)(2) and Section 301 of the LMRA, 29 U.S.C. § 185 (a).

COUNT ONE
**(UNPAID CONTRIBUTIONS AND LIQUIDATED DAMAGES
AND BREACH OF COLLECTIVE BARGAINING AGREEMENT)**

12. On April 8, 2009, Logan and Company entered into an Employer Participation Endorsement Agreement obligating the company to a collective bargaining agreement (“CBA”), which binds Logan and Company to pay monthly contributions to the National Pension Fund, Health & Welfare Fund, Annuity Fund, Apprenticeship Fund, and International Training Fund, (collectively the “Plaintiffs Funds” or “Funds”) and working dues to the Plumbers and Pipefitters Local No. 430 on behalf of employees represented in collective bargaining by Local 430 for services performed at a project or projects in the Northern District of Oklahoma.

13. Logan has been signatory to the CBA, as it has been since 2009 or earlier.

14. Under the CBA, Logan is obligated to remit the following fringe benefits on behalf of employees engaged in covered employment and represented in collective bargaining by Local 430:

- a. \$4.43 per working hour to the National Pension Fund;
- b. \$5.15 per working hour to the Health & Welfare Fund;
- c. \$1.75 per working hour to the Annuity Fund;
- d. \$.70 per working hour to the Apprenticeship Fund; and
- e. \$.10 per working hour to the International Training Fund.

15. The CBA obligates Logan to deduct 2.5% of its covered employees’ gross wage for dues to Local 430.

16. Further, as a signatory Employer, Logan is bound by the Agreements and Declarations of Trust, and rules and regulations of the Plaintiff Funds.

17. The CBA, Participation Agreement and Trust Agreements require Logan to file monthly remittance reports itemizing hours worked by employees in the bargaining unit and covered by the CBA. Signatory employers calculate the payments they owe to the Plaintiffs Funds from these reports.

18. Logan has failed to submit hourly fringe benefit contributions due each Fund and working dues to Local 430 for the work month May 2016 for hours worked by employees performing covered employment. Logan currently owes the Plumbers and Pipefitters Local Union 430 Health and Welfare Fund \$27,356.80 in contributions and \$4,012.33 in interest and liquidated damages; the Plumbers and Pipefitters Local Union 430 Annuity Fund \$8,629.25 in contributions and \$1,265.62 in interest and liquidated damages; the Local Union No. 430 Joint Apprenticeship and Training Fund \$3,451.70. Additionally, Logan owes \$22,381.71 to the National Pension Fund resulting from underpayments for the work month May 2016.

19. Logan and Company has acknowledged its debts to the Funds and Local 430, but claims it has not been paid for the project involving CP Kelco and Jedson Engineering for which it was working in May 2016.

20. The Funds and Local 430 are entitled to collect delinquent contributions and working dues owed for May 2016.

21. The Funds are entitled to accruing interest on the delinquent contributions at the following rates: National Pension Fund 12% per annum, International Training Fund 12% per annum, Health and Welfare Fund 8% per annum, Annuity Fund 8% per annum, Apprenticeship Fund 8% per annum.

22. In accordance with ERISA, the Plaintiffs Funds are also entitled to liquidated damages of 20% of delinquent contributions, except for the National Pension Fund which is entitled to receive liquidated damages of 10% of the delinquent contributions

23. The Funds are entitled to recover all costs incurred in exacting compliance under the CBA, Participation Agreement, Plan Documents and Trust Agreements, including the actual costs of any payroll audit, attorneys' fees and costs of this litigation.

24. Logan is liable for unpaid contributions and working dues owed for the work month May 2016, liquidated damages, interest, attorneys' fees and costs, in accordance with §§ 502 and 515 of ERISA, 29 U.S.C. §§ 1132 and 1145, and § 301 of the LMRA, 29 U.S.C. § 185, and the terms of the Funds' Trusts.

25. A copy of this Complaint is being served upon the Secretary of Labor and Secretary of Treasury by certified mail as required by 29 U.S.C. § 1132(h).

WHEREFORE, the Plaintiffs pray that this Court deem the Complaint sufficient and, after a trial on the merits, find for the Plaintiffs and against Logan and Company, Inc., granting the following relief:

- a. Judgment awarding all unpaid contributions owed to the Plumbers and Pipefitters National Pension Fund, Health & Welfare Fund, Annuity Fund, Apprenticeship Fund, and International Training Fund;
- b. All unpaid dues to Local 430;
- c. Interest on all unpaid contributions;
- d. Liquidated damages;
- e. Reasonable attorneys' fees and costs of litigation, including all costs of any payroll audit; and

f. Any and all legal or equitable relief that this Court deems appropriate, including an order compelling an audit of Logan and Company's payroll records.

Respectfully submitted,

**ROBEIN, URANN,
SPENCER, PICARD & CANGEMI, APLC**

/s/ Louis L. Robein

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Complaint has been served by certified mail, as required by Section 502(h) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1132(h) this 5th day of January, 2017, on the following:

Jacob J. Lew
Department of The Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Thomas E. Perez, Secretary of Labor
U.S. Department of Labor
200 Construction Avenue, N.W.
Washington, D.C. 20210

/s/ W. Brant Warrick
W. Brant Warrick